THE HONOUABLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.22126 of 2005

Between:

Islavath Reddy. ..
PETITIONER

and

The District Collector (Civil Supplies),
Karimangar and others.
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RESPONDENTS

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ORDER:

This writ petition is filed seeking a Writ of Mandamus declaring the proceedings, dated 31-03-2003, passed by the 3rd respondent-Revenue Divisional Officer, Sircilla, Karimnagar, Karimnagar District, in cancelling the authorization for dealership of Fair Price Shop No.4020 and the proceedings No.G4/898/2003, dated 28-02-2005, passed by the 2nd respondent-Joint Collector, Karimnagar District, Karimnagar, dismissing the appeal preferred by the petitioner and the proceedings No.G4/185/2005, dated 31-07-2005, passed by the 1st respondent-District Collector, Karimnagar District, Karimangar, dated 31-07-2005, dismissing the revision preferred by the petitioner, as arbitrary and illegal and violative of Articles 14, 16 and 21 of the Constitution of India.

It appears that the petitioner was a Fair Price Shop Dealer of Shop No.4020, Nimmapalli village, Konaraopet Mandal, Karimnagar District. The 3rd respondent, through his proceedings, dated 31-03-2003, cancelled the authorization of the petitioner. Aggrieved by the same, the petitioner carried the matter in appeal before the 2nd respondent. The 2nd respondent, through his proceedings, dated 28-02-2005, dismissed the appeal, by making some more probe into the matter, which does not form part of the show cause notice or the order passed by the 3rd respondent. Further, aggrieved by the same, the petitioner filed a revision

before the 1st respondent. The 1st respondent, through his proceedings, dated 31-07-2005, dismissed the revision. Aggrieved by the same, the present writ petition is filed.

There is no necessity to go into all the details. It is suffice to notice the order, dated 31-03-2003, passed by the 3rd respondent, which reads as under:-

> "ORDER:
> By the above references 1 and 2, the MRO Konaraopet Mandal, reported to this office that Islavath Reddy, Fair Price Shop Dealer, Shop No.4020, Nimmapalli, is not distributing essential commodities and is caught by the villagers while diverting 50 kgs. of rice. The MRI-I after enquiry filed a case against him under 6A. By the reference 3rd cited, his authorization was temporarily cancelled on that ground and issued show cause notice through the reference 4th cited. The dealer submitted his explanation through the reference 5th cited and attended this office in person.
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> The explanation submitted by Islavath Reddy is not satisfactory. On 21-03-2003 the Collector, Karimnagar District, visited Nimmapalli and received complaint by the Nimmapalli villagers regarding irregularities committed by Sri Islavath Reddy. Mainly the Head Master of local school has given a written complaint to the MRO Konaraopet regarding non supply of NPNSPE rice for 3 months to the school.
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> The above charges against Sri Islavath Reddy, FP Shop Dealer, Shop No.4020, Nimmapalli village has been proved, thereby violated Essential Commodities (Public Distribution Order) G.O.Ms.No.1088, dated 29-09-1973 and Public Distribution Control Order 2001 and his authorization has been cancelled permanently."

The above-mentioned order was upheld by the 2nd respondent as well as by the 1st respondent.

From the above order, it is not clear as to who conducted the enquiry and who were the villagers, who caught hold the petitioner, while diverting the so-called 50 kgs. of rice. Infact, no statements were recorded nor anybody was examined in the enquiry nor the petitioner was given any opportunity to cross-examine them. Further, it is stated that mainly the enquiry was taken up on the written complaint given by Headmaster of the local school to the 4th respondent-Mandal Revenue Officer, Konaraopet Mandal, Karimnagar, Karimnagar District, regarding non-supply of NPNSPE rice for three months to the school.

In this case, neither the said Head Master was examined nor the impugned order, dated 31-03-2003, passed by the 3rd respondent, speaks about the details of non-supply of NPNSPE rice etc.

The whole enquiry conducted is against the procedural law and practice. Thus, passing of the impugned order is in gross violation of principles of natural justice.

For all the above reasons, the impugned order, dated 31-03-2003, passed by the 3rd respondent, as confirmed by the 2nd respondent and further confirmed by the 1st respondent, is liable to be set aside.

Accordingly, the writ petition is allowed setting the impugned order, dated 31-03-2003, passed by the 3rd respondent, as confirmed by the 2nd respondent and further confirmed by the 1st respondent, and the authorization of the petitioner shall be restored, forthwith. However, the period, from the date of suspension of the authorization till date, shall be treated as suspension of authorization as a measure of punishment, instead

of directing to conduct any further enquiry into the matter. There shall be no order as to costs.

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12-10-2006

Prv